

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

	*	
<b>UNITED STATES OF AMERICA</b>	*	
<b>Respondent</b>	*	
<b>v.</b>	*	<b>CRIMINAL NO. JKB-13-0012</b>
<b>GOKHAN BERGAL</b>	*	
<b>Petitioner</b>	*	
*   *   *   *   *   *   *   *   *   *   *		

**MEMORANDUM AND ORDER**

Now pending before the Court is the Defendant’s MOTION FOR LEAVE TO FILE NOTICE OF APPEAL OUT OF TIME pursuant to Rule 4(a)(5)(A)(ii) of the Federal Rules of Appellate Procedure (ECF No. 1087). The Government opposes the Motion (ECF No. 1089). In opposing the Defendant, the Government has argued not just the merits of the request for an extension of time but also the underlying issues in the sentencing dispute. In his reply, with the obvious but undisclosed assistance of counsel, the Defendant also reengages on the underlying, substantive issues.

The sole question before the Court at this juncture is whether the Defendant should be afforded a substantial extension of time, after the fact, in which to file his appeal. The Order from which the Defendant wishes to appeal was entered on August 6, 2015. By his own admission, he learned of this Order no later than August 20, 2015. Accordingly, it would be reasonable to grant the Defendant 30 days from August 20, 2015, that is, until September 19, 2015, in which to file his notice of appeal on an “excusable neglect” theory. But the Defendant failed to file a notice of appeal by that date, and he failed to otherwise address the issue until

November 19, 2015. Wholly apart from the fact that the Defendant's appeal appears to be meritless, he is without an excuse or good cause for failing to act during the three months after he acknowledges he learned of the adverse ruling. While the undisclosed legal counsel now advising the Defendant may be able to construct an argument for why the Court's August 6, 2015 ruling was erroneous, upon review there is nothing in that argument that suggests that it could not have been framed prior to September 19, 2015.

Accordingly, the Court is unable to find that the Defendant has demonstrated excusable neglect or good cause justifying the substantial extension of time that he requests, and his Motion is DENIED.

DATED this 6<sup>th</sup> day of January, 2016.

BY THE COURT:

/s/  
James K. Bredar  
United States District Judge